IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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ORDER

Smt. Maya Sharma

vs

State of Rajasthan & Ors.

S.B. CIVL WRIT PETIITON NO.1884/2002 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER : 18th Sept., 2006

PRESENT

HON'BLE MR.MOHAMMAD RAFIQ,J.

Mr.R.K. Soni, Advocate, for the petitioners.
Mr.Rameshwar Dave, Advocate for the respondents.

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BY THE COURT: -

This writ petition has been filed by petitioner Smt. Maya Sharma with the prayer that the respondents may be directed to sent the petitioner for training of para teacher and appoint here

with all consequential benefits and the advertisement dated 4.5.2002 whereby the aforesaid post has been again advertised may be quashed and set aside.

The petitioner claims that an advertisement for appointment on the post of para teacher in Rajeev Gandhi Swaran Jayanti Pathshala, Gram Panchayat Almas was issued some time in the year 2003. The Gram Panchayat, Almas in its meeting held on 2.10.2001 selected the petitioner out of three applicants. Although other persons who were selected as para teacher in the meetings of various Gram Sabhas were already sent for training w.e.f. 1st June, 2002, but the respondents did not send the petitioner for training. They rather issued fresh advertisement dated 4.5.2002 inviting applications for appointment on the aforesaid post of para teacher and cancelled earlier applications on the post of para teacher. According to the petitioner when she was already selected,the respondents could not invite applications afresh. Hence, this writ petition .

The respondents have contested the writ petition and have argued that the Gram Panchayat did not send the resolution allegedly passed on 2.10.2001 selecting the petitioner. The petitioner has not impleaded Gram Panchayat as party-respondent, therefore, the writ petition is liable to be dismissed

on this count alone. When the post of para teacher remained unfilled, the respondents issued fresh advertisement stating therein that the earlier advertisement issued would be treated as cancelled and all the candidates were required to apply afresh. It has therefore been prayed that the writ petition may be rejected.

The Gram Panchayat was impleaded as party respondent on application of the petitioner vide order of this Court dated 16.2.2005. It appears that another application was also filed by Smt. Anisha Begum for being impleaded as party-respondent stating therein that in response to fresh advertisement dated 4.5.2002, she was selected and appointed on the post of para teacher She was sent for training on 1st June, 2002 which she successfully completed on 30th June, 2002. Neither the petitioner applied in response to the said advertisement nor did he challenge her selection, but since the respondents have withheld her appointment due to pendency of the present writ petition, she would be effected by the out come of the writ petition and has therefore prayed for impleadment as party-respondent. Application of Smt. Anisha Begum was also allowed by order dated 11th July, 2003 and she was ordered to be impleaded as party respondent.

I have considered the arguments advanced by learned counsel for the parties and perused the record.

When the respondents have categorically denied having receipt of any resolution passed by the Gram Panchayat on 2.10.2001 and have cited this as reason for their initiating fresh process of selection by issuing advertisement dated 4.5.2002 and particularly, when in the advertisement it was categorically stated that earlier advertisement should be treated as cancelled and the candidates would be required to apply afresh, there was no reason for the petitioner not to apply in response to the said advertisement. Even though the Gram Panchayat was subsequently being impleaded as party-respondent by the petitioner, but it has chosen not to appear instead of service, but mere non-appearance of the Gram Panchayat would by itself cannot be taken as a proof from the fact that the petitioner was, in fact, selected by Gram Panchayat on 2.10.2001. The documents Annexs.5 and 6 placed on record by the petitioner would have no effect when the respondents have denied having received any such resolution passed by the Gram Panchayat selecting the petitioner. This precisely is the reason why the post was advertised afresh. In fact, fresh advertisement dated 4.5.202 clearly stated that the earlier advertisement should be treated as cancelled and all the candidates were required to

apply afresh. If the petitioner did not then apply, he did so at his own peril. I do not find any ground to annul the subsequent selection of the respondent no.6 made by the respondents.

In the circumstances, I do not find any merit in the writ petition.

The writ petition is accordingly dismissed with no order as to costs.

(MOHAMMAD RAFIQ), J.

c.p.goyal/-